

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>PHYLLIS DRUMMOND,</b>	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 07-58-***
	:	
<b>PATRICK RYAN,</b> Warden,	:	
and <b>JOSEPH R. BIDEN, III,</b> Attorney	:	
General of the State of Delaware,	:	
	:	
Respondents.	:	

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Phyllis Drummond, has applied for federal habeas relief, filing a habeas petition challenging her 2004 conviction and sentence for first degree robbery and wearing a disguise during the commission of a felony. D.I. 1. By the terms of the Court's order of May 4, 2007, the answer is due to be filed on June 22, 2007.

2. Counsel has been, and continues to be, diligently working on numerous cases before this Court and the state courts. However, the workload for the Appeals Division attorneys is currently very substantial. Counsel was unexpectedly out of the office last week, and will be again this week, due to family medical problems. Counsel has written substantial portions of the answer, but has been unable to complete it. In light of the situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of

time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9<sup>th</sup> Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' second request for an extension of time in this case.

5. Respondents submit that an extension of time to and including July 6, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 3759

DATE: June 21, 2007

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is in the custody of the Delaware Department of Correction and appearing *pro se*, to the subject matter of this motion.

/s/ Elizabeth R. McFarlan  
Deputy Attorney General

Counsel for Respondents

Date: June 21, 2007

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**PHYLLIS DRUMMOND,**

Petitioner,

V.

**PATRICK RYAN**, Warden,  
and **JOSEPH R. BIDEN, III**, Attorney  
General of the State of Delaware,

Respondents.

[illegible]

Civ. Act. No. 07-58-\*\*\*

## ORDER

This \_\_\_\_\_ day of \_\_\_\_\_, 2007,

WHEREAS, respondents having requested an extension of time in which to file an answer,

and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before July 6, 2007.

United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on June 21, 2007, I electronically filed a motion for extension of time with the Clerk of Court using CM/ECF. I also hereby certify that on June 21, 2007, I have mailed by United States Postal Service, the same document to the following non-registered participant:

Phyllis Drummond.  
SBI No. 241930  
Women's Correctional Institute  
660 Baylor Blvd.  
New Castle, DE 19720

/s/ Elizabeth R. McFarlan  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar. ID No. 3759  
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